

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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EUGENE LAPO,

Plaintiff,

v.

VICTORIA KUHN, ESQ., et al.,

Defendants.  
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Civ. No. 23-21128

**MEMORANDUM AND ORDER**

**CECCHI, District Judge.**

Plaintiff Eugene Lapo, a pretrial detainee at Hudson County Correctional Facility (“HCCF”), seeks to commence a civil rights action pursuant to 42 U.S.C. § 1983 and to proceed *in forma pauperis* (“IFP”). ECF Nos. 1, 1-1. For the reasons below, the Court denies Plaintiff’s IFP application without prejudice and administratively terminates this action.

A prisoner seeking to commence a civil action without prepayment of the filing fee must submit an affidavit, including a statement of all assets, establishing that the prisoner is unable to pay the fee. *See* 28 U.S.C. § 1915(a)(1). The prisoner must also submit a certified copy of his inmate trust fund account statement for the six-month period immediately preceding the filing of the complaint. *See* 28 U.S.C. § 1915(a)(2). The prisoner must obtain this statement from the appropriate official of each prison at which he is or was confined. *Id.*

Here, Plaintiff has not provided account statements for the six months preceding the date he filed his complaint.<sup>1</sup> Rather, he has provided an account certification with the notation “no funds in account as of 9/14/23” followed by a one-page document titled “Resident Account

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<sup>1</sup> According to the information on Plaintiff’s IFP application, he has been detained at HCCF since May 2023. ECF No. 1-1 at 2.

Summary” (“RAS”), dated September 14, 2023, that is blank, *i.e.*, it contains no information about the account balance or transactions. ECF No. 1-1 at 3–4.

Without information regarding Plaintiff’s prison account funds (or the absence thereof) for the six-month period immediately preceding the filing of the complaint, the Court cannot determine whether IFP status is appropriate. Accordingly, the Court denies Plaintiff’s IFP application without prejudice. If Plaintiff provides the Court with a certified account statement covering the six-month period prior to the date he filed his complaint, he may request that the Court reopen the case. If Plaintiff is unable to provide a certified six-month account statement, he shall provide a letter signed by the appropriate prison official explaining why he is unable to provide the necessary statement.

Accordingly, **IT IS** on this 24th day of January, 2024,

**ORDERED** that the application to proceed *in forma pauperis* (ECF No. 1-1) is **DENIED WITHOUT PREJUDICE**; and it is further

**ORDERED** that the Clerk of the Court shall **ADMINISTRATIVELY TERMINATE** this case, without filing the complaint or assessing a filing fee. This is not a “dismissal” for purposes of the statute of limitations. If the case is reopened, it is not subject to the statute of limitations time bar if it was originally filed timely; and it is further

**ORDERED** that if Plaintiff wishes to reopen this case, he shall notify the Court, in writing addressed to the Clerk of the Court, Martin Luther King Building & U.S. Courthouse, 50 Walnut Street Room 4015, Newark, NJ 07101, within 45 days of the date of entry of this Order; Plaintiff’s writing shall include either (1) a complete, signed IFP application, including a legible certified six-month prison account statement, or (2) if Plaintiff is unable to provide a certified six-month account statement, a letter signed by the appropriate prison official explaining why he is unable to

provide the necessary statement, or (3) the \$405 fee (which includes a \$350 filing fee and a \$55 administrative fee); and it is further

**ORDERED** that upon receipt of a writing from Plaintiff stating that he wishes to reopen this case, and either a complete IFP application, a letter signed by the appropriate prison official, or payment of the filing and administrative fees within the time allotted by this Court, the Clerk of the Court will be directed to reopen this case; and it is finally

**ORDERED** that the Clerk of the Court shall serve a copy of this Order and a blank IFP application (DNJ-Pro Se-007-A-(Rev.12/2020, 12/2023)) upon Plaintiff by regular U.S. mail.

*/s/ Claire C. Cecchi*

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**CLAIRE C. CECCHI, U.S.D.J.**